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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,718	09/09/2003	Steve Kangas	S63.2-11232-US01	2774

490 7590 05/12/2006

VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

EXAMINER

BUTTNER, DAVID J

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 05/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/658,718

Applicant(s)

KANGAS, STEVE

Examiner

David Buttner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 1-16, 18-25 and 38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17, 26-37, 39-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claims renumbered as 17 and 26 have been incorrectly labeled as "withdrawn".

The next response must include a set of claims with the proper status identifiers.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 17,26-37 and 39-43 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

There is no basis in the original disclosure for coating of a single polyurethane based on polytetramethylene ether glycol segments.

There is basis for using TECOGEL 500 and 2000 alone. TECOGEL is based on polyethylene glycol (see Venkatraman col 8 line 15) not polytetramethylene ether glycol. There is basis for using a combination of TECOGEL with TECOPHILIC. There is not basis for using TECOPHILIC alone. Claims to a subcombination (ie TECOPHILIC) are not supported by disclosure directed to the combination (TECOGEL + TECOPHILIC). See In re Simon 133 USPQ 524.

Secondly, the documentation supplied by applicant to show the identity of TECOPHILIC is undated. The identification of a trademark material must be known at the time of filing applicant's application (MPEP 608.01(v)).

There is no basis in the original disclosure for claim 41-43's requirement that a polyurethane have both polyethylene glycol AND polytetramethylene ether glycol segments.

Even if original specification inherently supported the amended claims, the specification would be objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). The claim language must be placed in the specification.

Claims 36 and 37 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 36's monoacrylates and triacrylates are not the diacrylates required by claim 35.

There is no antecedent basis for "crosslinkable" in claim 37.

Claims 17,26-28,30-34,36,39 and 40 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Krishnan 2002/0065373.

Krishnan produces mixtures of polyurethane with crosslinker (abstract). It is used to coat biomedical articles (paragraph 24). The crosslinker can be a triacrylate (paragraph 16). The polyurethane can be a polyetherurethane (claim 6) based on aliphatic diisocyanates (claim 3). Krishnan does not specify the type of polyether segment, but the Pellethane family of urethanes used in Krishnan's example is known to be based on polytetramethylene oxide (see Borgersen 2001/0018607 paragraph 61).

Claims 17,26-28,30-37 and 39-43 rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Zamore 2004/0002729.

Zamore irradiates thermoplastic polymers in the presence of crosslinking monomers (abstract). The polymer can be TECOPHILIC (paragraph 74) which is applicant's polytetramethylene ether glycol based polyurethane. The crosslinker can be neopentylglycoldiacrylate (paragraph 69). This composition is used to coat medical articles (paragraph 55).

Applicant's arguments filed 5/3/06 have been fully considered but they are not persuasive.

Applicant's arguments are based on the new matter amendments. The newly cited references suggests polyurethanes based on polytertamethylene ether glycol.

This application contains claims 1-16,18-25 and 38 drawn to an invention nonelected with traverse in response of 5/3/06. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Buttner whose telephone number is 571-272-1084. The examiner can normally be reached on weekdays from 10 to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski, can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Buttner

5/10/06

DAVID J. BUTTNER
PRIMARY EXAMINER

